FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE
Criminal REVN. NO. 136 OF 2005

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar' ɷrders. Court' ɷr Judge' ɷrders

K. Balakrishnan for petitioner

CORAM: R.M.S. KHANDEPARKAR
&
SMT. R.S. DALVI JJ.
DATE:14/03/2006

P.C.:

1. The petitioner challenges the order dated 31st January 2005 whereby the Family Court had directed the petitioner to pay maintenance allowance of Rs.1500/- per month to each of the two minor children. The challenge is on the ground that the trial court has ignored the liabilities of the petitioner and on that count inability on the part of the petitioner to pay the monthly allowance at the rate ordered to be paid.

2. A perusal of the impugned order it discloses that the Family Court after having taken into consideration the entire evidence as to the petitioner's monthly salary of Rs.12,000/- and that the petitioner has to maintain his second wife and his daughter out of the second wed lock, directed a meager amount of Rs.3000/- to be the maintenance allowance for the two children, who are staying with the respondent no.1, the 1st wife of the petitioner. The Family Court has also considered the fact that the respondent no.1 is also employed as a teacher and taking into consideration all these aspects of the matter, has fixed the maintenance amount of Rs.3000/- per month in relation to both the minor children staying with respondent no.1.

3. An attempt was made on behalf of the petitioner to suggest that the petitioner is ready to take the responsibility of upbringing of the minor children who are staying with the respondent no.1. It is not in dispute that the children are from of the

wedlock of the petitioner with the respondent no.1. They being minor the question of their custody being entrusted to the petitioner does not arise. Being so, it is absolutely necessary to share the responsibility of upbringing the children by the petitioner and the respondent no.1 and this aspect has also been considered by the Family Court.

4. In the facts and circumstances of the case, therefore, the Family Court having considered the entire material on record and having adopted the correct procedure while deciding the responsibility of the petitioner to grant maintenance allowance to his minor children who are residing with the respondent no.1, no fault or any sort of irregularity can be found with the impugned order. Hence the petition is rejected.

(MRS ROSHAN DALVI J) (R.M.S. KHANDEPARKAR J.)